

Introduced by Senator Oropeza

February 23, 2009

An act to amend Section 21100.4 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 201, as introduced, Oropeza. Vehicles: illegal taxicabs.

Existing law requires a magistrate, who is presented with the affidavit of a peace officer or a designated local transportation officer establishing reasonable cause to believe that a vehicle, described by vehicle type and license number, is being operated as a taxicab or other passenger vehicle for hire in violation of the licensing requirements adopted by a local authority, to issue a warrant or order authorizing any peace officer to immediately seize and cause the removal of the vehicle. Existing law provides that such a vehicle may be released prior to the end of the 30 days' period of impoundment if specified conditions are met.

This bill would revise these provisions to require that a vehicle operated as an illegal taxicab or illegally as a passenger vehicle for hire may not be released prior to the 30 days' period of impoundment unless certain conditions are met.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21100.4 of the Vehicle Code is amended
- 2 to read:
- 3 21100.4. (a) (1) A magistrate presented with the affidavit of
- 4 a peace officer or a designated local transportation officer

1 establishing reasonable cause to believe that a vehicle, described
2 by vehicle type and license number, is being operated as a taxicab
3 or other passenger vehicle for hire in violation of licensing
4 requirements adopted by a local authority under subdivision (b)
5 of Section 21100 shall issue a warrant or order authorizing the
6 peace officer or designated local transportation officer to
7 immediately seize and cause the removal of the vehicle. As used
8 in this section, “designated local transportation officer” means any
9 local public officer employed by a local authority to investigate
10 and enforce local taxicab and vehicle for hire laws and regulations.

11 (2) The warrant or court order may be entered into a
12 computerized database.

13 (3) A vehicle so impounded may be impounded for a period not
14 to exceed 30 days.

15 (4) The impounding agency, within two working days of
16 impoundment, shall send a notice by certified mail, return receipt
17 requested, to the legal owner of the vehicle, at an address obtained
18 from the department, informing the owner that the vehicle has
19 been impounded and providing the owner with a copy of the
20 warrant or court order. Failure to notify the legal owner within
21 two working days shall prohibit the impounding agency from
22 charging for more than 15 days’ impoundment when a legal owner
23 redeems the impounded vehicle.

24 (b) (1) An impounding agency shall release a vehicle to the
25 registered owner or his or her agent prior to the end of the
26 impoundment period and without the permission of the magistrate
27 authorizing the vehicle’s seizure under any of the following
28 circumstances:

29 (A) When the vehicle is a stolen vehicle.

30 (B) When the vehicle was seized under this section for an
31 offense that does not authorize the seizure of the vehicle.

32 (2) A vehicle ~~may~~ *shall not* be released under this subdivision,
33 except upon presentation of the registered owner’s or agent’s
34 currently valid license to operate the vehicle under the licensing
35 requirements adopted by the local authority under subdivision (b)
36 of Section 21100, and proof of current vehicle registration, or upon
37 order of the court.

38 (c) (1) Whenever a vehicle is impounded under this section,
39 the magistrate ordering the storage shall provide the vehicle’s
40 registered and legal owners of record, or their agents, with the

1 opportunity for a poststorage hearing to determine the validity of
2 the storage.

3 (2) A notice of the storage shall be mailed or personally
4 delivered to the registered and legal owners within 48 hours after
5 issuance of the warrant or court order, excluding weekends and
6 holidays, by the person or agency executing the warrant or court
7 order, and shall include all of the following information:

8 (A) The name, address, and telephone number of the agency
9 providing the notice.

10 (B) The location of the place of storage and a description of the
11 vehicle, that shall include, if available, the name or make, the
12 manufacturer, the license plate number, and the mileage of the
13 vehicle.

14 (C) A copy of the warrant or court order and the peace officer's
15 affidavit, as described in subdivision (a).

16 (D) A statement that, in order to receive their poststorage
17 hearing, the owners, or their agents, are required to request the
18 hearing from the magistrate issuing the warrant or court order in
19 person, in writing, or by telephone, within 10 days of the date of
20 the notice.

21 (3) The poststorage hearing shall be conducted within two court
22 days after receipt of the request for the hearing.

23 (4) At the hearing, the magistrate may order the vehicle released
24 if he or she finds any of the circumstances described in subdivision
25 (b) or (e) that allow release of a vehicle by the impounding agency.

26 (5) Failure of either the registered or legal owner, or his or her
27 agent, to request, or to attend, a scheduled hearing satisfies the
28 poststorage hearing requirement.

29 (6) The agency employing the peace officer or designated local
30 transportation officer who caused the magistrate to issue the
31 warrant or court order shall be responsible for the costs incurred
32 for towing and storage if it is determined in the poststorage hearing
33 that reasonable grounds for the storage are not established.

34 (d) The registered owner or his or her agent is responsible for
35 all towing and storage charges related to the impoundment, and
36 any administrative charges authorized under Section 22850.5.

37 (e) A vehicle removed and seized under subdivision (a) shall
38 be released to the legal owner of the vehicle or the legal owner's
39 agent prior to the end of the impoundment period and without the

1 permission of the magistrate authorizing the seizure of the vehicle
2 if all of the following conditions are met:

3 (1) The legal owner is a motor vehicle dealer, bank, credit union,
4 acceptance corporation, or other licensed financial institution
5 legally operating in this state or is another person, not the registered
6 owner, holding a financial interest in the vehicle.

7 (2) The legal owner or the legal owner's agent pays all towing
8 and storage fees related to the seizure of the vehicle. A lien sale
9 processing fee shall not be charged to the legal owner who redeems
10 the vehicle prior to the 15th day of impoundment. Neither the
11 impounding authority nor any person having possession of the
12 vehicle shall collect from the legal owner of the type specified in
13 paragraph (1), or the legal owner's agent, any administrative
14 charges imposed pursuant to Section 22850.5 unless the legal
15 owner voluntarily requested a poststorage hearing.

16 (3) (A) The legal owner or the legal owner's agent presents
17 either lawful foreclosure documents or a certificate of repossession
18 and a security agreement or title showing proof of legal ownership
19 for the vehicle. The documents presented may be originals,
20 photocopies, or facsimile copies, or may be transmitted
21 electronically. The impounding agency may not require any
22 documents to be notarized. The impounding agency may require
23 the agent of the legal owner to produce a photocopy or facsimile
24 copy of its repossession agency license or registration issued
25 pursuant to Chapter 11 (commencing with Section 7500) of
26 Division 3 of the Business and Professions Code, or to demonstrate,
27 to the satisfaction of the impounding agency, that the agent is
28 exempt from licensure pursuant to Section 7500.2 or 7500.3 of the
29 Business and Professions Code.

30 (B) No administrative costs authorized under subdivision (a) of
31 Section 22850.5 may be charged to the legal owner of the type
32 specified in paragraph (1), who redeems the vehicle unless the
33 legal owner voluntarily requests a poststorage hearing. No city,
34 county, city and county, or state agency shall require a legal owner
35 or a legal owner's agent to request a poststorage hearing as a
36 requirement for release of the vehicle to the legal owner or the
37 legal owner's agent. The impounding agency may not require any
38 documents other than those specified in this paragraph. The
39 impounding agency may not require any documents to be notarized.

1 (C) As used in this paragraph, “foreclosure documents” means
2 an “assignment” as that term is defined in subdivision (o) of
3 Section 7500.1 of the Business and Professions Code.

4 (f) (1) A legal owner or the legal owner’s agent that obtains
5 release of the vehicle pursuant to subdivision (e) may not release
6 the vehicle to the registered owner of the vehicle or any agents of
7 the registered owner until the termination of the impoundment
8 period.

9 (2) The legal owner or the legal owner’s agent may not
10 relinquish the vehicle to the registered owner until the registered
11 owner or that owner’s agent presents his or her valid driver’s
12 license or valid temporary driver’s license, and an operator’s
13 license that is in compliance with the licensing requirements
14 adopted by the local authority under subdivision (b) of Section
15 21100, to the legal owner or the legal owner’s agent. The legal
16 owner or the legal owner’s agent shall make every reasonable
17 effort to ensure that the licenses presented are valid.

18 (3) Prior to relinquishing the vehicle, the legal owner may
19 require the registered owner to pay all towing and storage charges
20 related to the impoundment and the administrative charges
21 authorized under Section 22850.5 that were incurred by the legal
22 owner in connection with obtaining the custody of the vehicle.

23 (g) Notwithstanding any other provision of this section, the
24 registered owner and not the legal owner shall remain responsible
25 for any towing and storage charges related to the impoundment
26 and the administrative charges authorized under Section 22850.5
27 and any parking fines, penalties, and administrative fees incurred
28 by the registered owner.

29 (h) The impounding agency is not liable to the registered owner
30 for the improper release of the vehicle to the legal owner or the
31 legal owner’s agent if the release complies with this section.